

United States
Department of the Interior
Bureau of Land Management

Miles City Field Office

**49 ROW Assignments to
WBI Energy Transmission, Inc.**

Categorical Exclusion (CX)
DOI-BLM-MT-C020-2013-0042-CX

For Further Information Please Contact:

Bureau of Land Management
Miles City Field Office
111 Garryowen Road
Miles City, Montana 59301
406-233-2800

BLM



UNITED STATES DEPARTMENT OF INTERIOR
BUREAU OF LAND MANAGEMENT
Miles City Field Office
111 Garryowen Road
Miles City, Montana 59301

CATEGORICAL EXCLUSION REVIEW AND APPROVAL

A. Background

BLM Office: Miles City Field Office

Serial Numbers: MTBIL-031412, MTBIL-038181, MTGF-083678, MTM-003234, MTM-001112, MTM-001246 MTM-022600, MTM-022748, MTM-035234, MTM-0352325, MTM-037735, MTM-066896, MTM-10027, MTM-10472, MTM-21488, MTM-46300, MTM-46384, MTM-50088, MTM-61091, MTM-72941, MTM-85913, MTM-87126, MTM-87153, MTM-87975, MTM-88166, MTM-88803, MTM-88804, MTM-88931, MTM-88934, MTM-90200, MTM-91044, MTM-91539, MTM-92375, MTM-92410, MTM-92787, MTM-92926, MTM-92927, MTM-93116, MTM-93362, MTM-93446, MTM-94799, MTM-95036, MTM-95062, MTM-95256, MTM-95912, MTM-96606, MTM-98606, MTM-103142, and MTM-103598

NEPA Number (if applicable): DOI-BLM-MT-C020-2013-0042-CX

Proposed Action Title/Type:

49 ROW Assignments to WBI Energy Transmission, Inc.

Location of Proposed Action (include county):

See attached list with serial number, use, authorization, county and expiration dates

Description of Proposed Action:

The proposed action is to assign 49 rights-of-way from Williston Basin Interstate Pipeline Company to WBI Energy Transmission, Inc. These rights-of-way were issued for various purposes and under various acts; see attachment for this information. These rights-of-way will be assigned pursuant to the act under which they were authorized, subject to all applicable provisions of the regulations at 43 CFR 2800 and 2880, and subject to the terms, conditions and stipulations under which they were authorized. No new standard stipulations would be added. WBI Energy Transmission, Inc. has requested that the rights-of-way be assigned from Williston Basin Interstate Pipeline Company to WBI Energy Transmission, Inc. They have submitted a SF-299, an Assignee Agreement, and a processing fee. Williston Basin Interstate Pipeline Company has submitted an Assignor Consent agreeing to the assignments. All of the rights-of-way have been inspected and are being used for the purpose for which they were authorized.

B. Land Use Plan Conformance

Land Use Plan Name: Powder River Resource Area RMP/EIS ROD

Date Approved/Amended: Approved on March 15, 1985

The proposed actions are in conformance with the applicable LUP because it is specifically provided for in the following LUP decision(s): Page 4 of the ROD states that, "Rights-of-way applications will continue to be approved on a case-by-case basis with appropriate stipulations. Applicants are encouraged to locate new facilities within existing rights-of-way." The proposed action has been reviewed for conformance with this plan and its terms and conditions as required by 43 CFR 1610.5

Land Use Plan Name: Big Dry Resource Area RMP/EIS ROD

Date Approved/Amended: Approved in April of 1996

The proposed action is in conformance with the Big Dry RA RMP/EIS and Record of Decision (ROD) approved in April of 1996. Page 10 of the ROD states that "Land use permits, leases, and easements will be issued on a discretionary basis, consistent with Section 302 of the Federal Land Policy and Management Act of 1976." Impacts from the open OHV area are discussed on pages 150-151, page 173 (#5), and page 175 (#5). The proposed action has been reviewed for conformance with this plan and its terms and conditions as required by 43 CFR 1610.5.

C. Compliance with NEPA:

The Proposed Action is categorically excluded from further documentation under the National Environmental Policy Act (NEPA) in accordance with 516 DM 11.9E (9) for renewals and assignments of leases, permits or rights-of-way where no additional rights are conveyed beyond those granted by the original authorizations.

This categorical exclusion is appropriate in this situation because there are no extraordinary circumstances potentially having effects that may significantly affect the environment. The proposed action has been reviewed, and, as documented below, none of the extraordinary circumstances described in 516 DM2 apply.

Extraordinary Circumstances		
The project would:		
1. Have significant impacts on public health or safety.		
Yes	No X	Rationale: <i>The project would not have significant impacts on public health and safety as it is for the assignment of 49 existing rights-of-way from Williston Basin Interstate Pipeline Company to WBI Energy Transmission, Inc. DDL 12/6/2012</i>

2. Have significant impacts on such natural resources and unique geographic characteristics as historic or cultural resources; park, recreation or refuge lands; wilderness areas; wild or scenic rivers; national natural landmarks; sole or principal drinking water aquifers; prime farmlands; wetlands (Executive Order 11990); floodplains (Executive Order 11988); national monuments; migratory birds; and other ecologically significant or critical areas.		
Yes	No X	Rationale: <i>Impacts would not be significant as the proposed action is to assign 49 existing rights-of-way. DDL 12/6/2012</i>
3. Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA section 102 (2) (E)].		
Yes	No X	Rationale: <i>No controversial environmental effects or unresolved conflicts. DDL 12/6/2012</i>
4. Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.		
Yes	No X	Rationale: <i>No highly uncertain and potentially significant environmental effects or unique or unknown environmental risks. DDL 12/6/2012</i>
5. Establish a precedent for future action or represent a decision in principal about future actions with potentially significant environmental effects.		
Yes	No X	Rationale: <i>This action is not connected to another action that would require further environmental analysis nor will it set a precedent for future actions that would normally require environmental analysis. DDL 12/6/2012</i>
6. Have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects.		
Yes	No X	Rationale: <i>This action does not have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects. See CFR 1508.7 DDL 12/6/2012</i>
7. Have significant impacts on properties listed, or eligible for listing, on the National Register of Historic Places as determined by either the bureau or office.		
Yes	No X	<p>Rationale: <i>Confirm that cultural surveys have been completed; the appropriate data bases have been reviewed; and appropriate concurrence from SHPO and tribes have been received indicating that significant impacts are not expected.</i></p> <p>The proposed action has been reviewed for potential impacts to cultural resources. The proposed action would not affect sites listed on or eligible for listing on the National Register of Historic Places. The proposed action meets the inventory exemption found in BLM Montana/Dakotas Cultural Resources Handbook H-8110-1, Appendix One, Realty #8. No additional cultural resource work is recommended for reassigning the ROWs.</p> <p>DM 12/10/2012</p>

8. Have significant impacts on species listed, or proposed to be listed, on the List of Endangered or Threatened Species, or have significant impacts on designated Critical Habitat for these species.		
Yes	No X	Rationale: This area does contain "core" habitat for the greater sage-grouse, designated as a Candidate Species. However, since this is simply a transfer of the ROW from one party to another, there would be no impact to the sage-grouse or habitat. <i>dct 12/10/2012</i>
9. Violate a Federal law, or a State, local or tribal law or requirement imposed for the protection of the environment.		
Yes	No X	Rationale: <i>No laws are being violated by this action. DDL 12/6/2012</i>
10. Have a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898).		
Yes	No X	Rationale: <i>Does not have a disproportionately high and adverse effect on low income or minority populations. DDL 12/6/2012</i>
11. Limit access to and ceremonial use of Indian sacred sites on Federal lands by Indian religious practitioners or significantly adversely affect the physical integrity of such sacred sites (Executive Order 13007).		
Yes	No X	Rationale: <i>Consultation with tribes regarding Indian sacred sites must take place</i> The proposed action would not limit access to, or ceremonial use of, public lands or adversely affect the physical integrity of sacred sites on public land. DM 12/10/12
12. Contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of such species (Federal Noxious Weed Control Act and Executive Order 13112).		
Yes	No X	Rationale: <i>The proposed action will not contribute to the introduction or spread of noxious weeds as 49 existing rights-of-way are being assigned. DDL 12/6/2012</i>



Environmental Coordinator

12/11/2012

Date



Supervisory Land Use Specialist

12/13/2012

Date

Decision Record for Categorical Exclusion
Assignment of 49 Rights-of-way from
Williston Basin Interstate Pipeline Company
to WBI Energy Transmission, Inc.
DOI-BLM-MT-C020-2013-0000-CX

Decision: I have made the decision to assign 49 Rights-of-way from Williston Basin Interstate Pipeline Company to WBI Energy Transmission, Inc. The rights-of-way are issued for various purposes, under various authorizations, and in various counties; see attached list. The rights-of-way will be subject to the terms and conditions in 43 CFR 2800 and 2880 and the terms, conditions and stipulations which were authorized for each right-of-way. No new standard stipulations will be added to any of the assigned rights-of-way. WBI Energy Transmission, Inc. has submitted a Category 4 processing fee. All the rights-of-way have been inspected and are being used for the purpose for which they were authorized. The rights-of-way will be monitored for use and before future renewal or closure.

Rationale for Decision: The proposed action meets the criteria for a categorical exclusion under 516 DM 11.9E (9) and none of the exceptions in 516 DM 2 apply. Further the action is in conformance with the Powder River Resource Area RMP/EIS ROD, which was approved on March 15, 1985 and the Big Dry Resource Area RMP/EIS which was approved in April of 1996.

I considered the proposed action. There is no potential for significant impacts. Use of this CX is appropriate and I have decided to implement this action.

D: Signature



Signature of Authorizing Official

12/13/2012
Date

Name: Todd D. Yeager.

Title: Field Manager.

Contact Person

For additional information concerning this CX review and decision, contact:

Dalice Landers, Realty Specialist (406-233-2836)
BLM – Miles City Field Office
111 Garryowen Road
Miles City, Montana 59301

Administrative Review or Appeal Opportunities

A BLM decision to issue a ROW may be appealed under regulations in 43CFR 2881.10 in accordance with part 4 of 43 CFR. A BLM decision affecting a ROW application carries the “full force and effect” of the decision. Under full force and effect the decision can be implemented immediately even if the decision is appealed to the IBLA. An affected party has the opportunity to file a petition for a stay with an appeal to the IBLA. The decision to issue a ROW in full force and effect requires information on petitions for stay to be included with the decision notification. The decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR, Part 4 and information on BLM Form 1842-1. If an appeal is taken, the notice of appeal must be filed in the Miles City Field Office at 111 Garryowen Road, Miles City, Montana 59301 within 30 days from receipt of the decision issuing the decision. The appellant has the burden of showing that the decision appealed from is in error.

If a petition (request) is filed pursuant to regulation 43 CFR 2801.10 or 43 CFR 2881.10 for a stay (suspension) of the effectiveness of the decision during the time that the appeal is being reviewed by the Board, the petition for a stay must accompany the notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the notice of appeal and petition for a stay must also be submitted to each party named in the decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with the Miles City Field Office. If a stay is requested, the requester has the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards:

- (1) The relative harm to the parties if the stay is granted or denied,
- (2) The likelihood of the appellant's success on the merits,
- (3) The likelihood of immediate and irreparable harm if the stay is not granted, and
- (4) Whether the public interest favors granting the stay.

RIGHTS-OF-WAY BEING ASSIGNED

MTBIL-031412 – Pipeline – MLA - Prairie, Fallon, Dawson, Wibaux Counties – Perpetual
MTBIL-038181 – Gas Pipeline – MLA – Dawson County - Perpetual
MTGF-083678 – Pipeline – MLA – McCone County – Perpetual
MTM-003234 – Pipeline – MLA – Fallon County – Expires 6/4/2018
MTM-001112 – Pipeline – MLA – Custer County – Expires 9/12/2032
MTM-001246 – Pipeline – MLA – Fallon County – Perpetual
MTM-022600 – Pipeline – MLA – Dawson, Wibaux, Fallon Counties – Expires 12/31/25
MTM-022748 - Pipeline – MLA – Fallon and Wibaux Counties – Perpetual
MTM-035234 – Pipeline – Bankhead Jones Act – Custer County – Perpetual
MTM-035235 – Pipeline – MLA – Prairie and Fallon Counties – Perpetual
MTM-037735 – Pipeline – MLA – Fallon County – Perpetual
MTM-066896 – Pipeline – MLA – Fallon County – Expires 7/12/2015
MTM-10027 – Pipeline – MLA – Carter and Powder River Counties – Perpetual
MTM-10472 – Pipeline – MLA – Powder River County – Perpetual
MTM-21488 – Pipeline – MLA – Custer County – Expires 6/26/2022
MTM-46300 – Pipeline – MLA – Dawson County – Expires 12/31/2039
MTM-46384 – Pipeline – MLA – Fallon County – Expires 12/31/2039
MTM-50088 – Pipeline – MLA – Dawson County – Expires 12/31/2040
MTM-61091 – Water Pipeline – FLPMA – Fallon County - Perpetual
MTM-72941 – Pipeline – MLA – Fallon County – Expires 12/31/2036
MTM-85913 – Pipeline – MLA – Fallon County – Expires 11/21/2026
MTM-87126 – Pipeline – MLA – Fallon County – Expires 8/28/2027
MTM-87153 – Pipeline – MLA – Fallon County – Expires 8/11/2027
MTM-87975 – Pipeline – MLA – Fallon County – Expires 6/7/2028
MTM-88166 – Road – FLPMA – Fallon County – Expires 6/7/2018
MTM-88803 – Pipeline – MLA – Fallon County – Expires 2/28/2019
MTM-88804 – Road – FLPMA – Fallon County – Expires 2/28/2019
MTM-88931 – Pipeline – MLA – Fallon County – Expires 12/31/2019
MTM-88934 – Road – FLPMA – Fallon County – Expires 12/31/2019
MTM-90200 – Pipeline – MLA – Powder River County – Expires 8/28/2020
MTM-91044 – Pipeline – MLA – Fallon County – Expires 12/31/2031
MTM-91539 – Pipeline – MLA – Carter and Fallon Counties – Expires 7/24/2033
MTM-92375 – Pipeline – MLA – Dawson County – Expires 2/18/2022
MTM-92410 – Pipeline – MLA – Fallon County – Expires 12/31/2023
MTM-92787 – Pipeline – MLA – Fallon County – Expires 9/10/2023
MTM-92926 – Road – FLPMA – Carter County – Expires 12/31/2038
MTM-92927 – Pipeline – MLA – Fallon County – Expires 12/31/2023
MTM-93116 – Water Pipeline – FLPMA – Fallon County – Expires 2/12/2024
MTM-93362 – Pipeline – MLA – Fallon County – Expires 4/25/2024
MTM-93446 – Pipeline – MLA – Fallon County – Expires 6/7/2024

MTM-94799 – Pipeline – MLA – Fallon County – Expires 12/31/2025
MTM-95036 – Pipeline – MLA – Fallon County – Expires 12/31/2025
MTM-95062 – Pipeline – MLA – Fallon County – Expires 12/31/2025
MTM-95256 – Road - FLPMA – Fallon County – Expires 12/31/2025
MTM-95912 – Road – FLPMA – Fallon County – Expires 12/31/2025
MTM-96606 – Pipeline – MLA – Fallon County – Expires 12/31/2026
MTM-98606 – Road - FLPMA – Carter County – Expires 12/31/2037
MTM-103142 – Road – FLPMA – Prairie, Dawson, Wibaux Counties – Expires 12/31/41
MTM-103598 – Road – FLPMA – Wibaux County – Expires 4/16/2015